

§ 2002.19 Authority to release records or copies.

Any Assistant Inspector General or an appointed designee is authorized to release any record (or copy) pertaining to activities for which he or she has primary responsibility, unless disclosure is clearly inappropriate under this part. No authorized person may release records for which another officer has primary responsibility without the consent of the officer or his or her designee.

[49 FR 11165, Mar. 26, 1984. Redesignated at 53 FR 37550, Sept. 27, 1988, as amended at 59 FR 14098, Mar. 25, 1994]

§ 2002.21 Authority to deny requests for records and form of denial.

(a) An Assistant Inspector General may deny a request for a record. Any denial will:

- (1) Be in writing;
- (2) State simply the reasons for the denial;
- (3) State that review of the denial by the Inspector General of HUD may be requested;
- (4) Set forth the steps for obtaining review consistent with § 2002.25; and
- (5) Be signed by the Assistant Inspector General responsible for the denial.

(b) The classes of records authorized to be exempted from disclosure by the Freedom of Information Act (5 U.S.C. 552) are those which concern matters that are:

- (1)(i) Specifically authorized under criteria established by an executive order to be kept secret in the interest of national defense or foreign policy; and
- (ii) Are in fact properly classified under the cited executive order;
- (2) Related solely to the internal personnel rules and practices of HUD;
- (3) Specifically exempted from disclosure by statute (other than section 552b of title 5), provided that the statute either:
 - (i) Requires that the matters be withheld from the public in a manner that leaves no discretion on the issue; or
 - (ii) Establishes particular criteria for withholding or refers to particular types of matters to be withheld;
- (4) Trade secrets and commercial or financial information that are obtained

from a person and are privileged or confidential;

(5) Inter-agency or intra-agency memoranda or letters that would not be available by law to a party other than an agency in litigation with HUD;

(6) Personnel and medical files and similar files the disclosure of which would constitute a clearly unwarranted invasion of personal privacy;

(7) Records or information compiled for law enforcement purposes, but only to the extent that the production of such law enforcement records or information:

(i) Could reasonably be expected to interfere with enforcement proceedings;

(ii) Would deprive a person of a right to a fair trial or an impartial adjudication;

(iii) Could reasonably be expected to constitute an unwarranted invasion of personal privacy;

(iv) Could reasonably be expected to disclose the identity of a confidential source, including a state, local, or foreign agency or authority, or any private institution which furnished information on a confidential basis, and, in the case of a record or information compiled by a criminal law enforcement authority in the course of a criminal investigation or by an agency conducting a lawful national security intelligence investigation, information furnished by a confidential source;

(v) Would disclose techniques and procedures for law enforcement investigations or prosecutions, or would disclose guidelines for law enforcement investigations or prosecutions if the disclosure could reasonably be expected to risk circumvention of the law; or

(vi) Could reasonably be expected to endanger the life or physical safety of any individual;

(8) Contained in or related to examination, operating, or condition reports prepared by, on behalf of, or for the use of an agency responsible for the regulation or supervision of financial institutions; or

(9) Geological and geophysical information and data, including maps, concerning wells.

(c) With regard to a request for commercial or financial information,

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predisdisclosure notification to business submitters is required by Executive Order 12600 (3 CFR, 1987 Comp., p. 235) to afford the business submitter an opportunity to object to disclosure of the requested information.

(d) Any reasonably segregable portion of a record shall be provided to any person requesting the record, after deletion of the portions that are exempt under this section.

[57 FR 2228, Jan. 21, 1992, as amended at 59 FR 14098, Mar. 25, 1994]

§ 2002.23 Effect of denial of request.

Denial of a request shall terminate the authority of the Assistant Inspector General or his or her designee to release or disclose the requested record, which thereafter may not be made available except with express authorization of the Inspector General of HUD.

[49 FR 11165, Mar. 26, 1984. Redesignated at 53 FR 37550, Sept. 27, 1988]

§ 2002.25 Administrative review.

(a) Review is available only from a written denial of a request for a record issued under § 2002.21 and only if a written request for review is filed within 30 days after issuance of the written denial.

(b) A review may be initiated by mailing a request for review to the Inspector General of HUD, Department of Housing and Urban Development, 451 Seventh Street, SW., Room 8256, Washington, DC 20410. Each request for review must contain the following:

(1) A copy of the request, if in writing;

(2) A copy of the written denial issued under § 2002.21; and

(3) A statement of the circumstances, reasons, or arguments advanced in support of disclosure of the original request for the record.

In order to enable the Inspector General of HUD to comply with the time limitations set forth in § 2002.17, both the envelope containing the request for review and the letter itself should clearly indicate that the subject is a Freedom of Information Act request for review.

(c) Review will be made promptly by the Inspector General of HUD on the

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basis of the written record described in paragraph (b) of this section. Before a denial, the Inspector General will obtain the concurrence of legal counsel for the Office of Inspector General.

(d) The time of receipt for processing of a request for review purposes is the time it is received by the Inspector General of HUD. If a request is misdirected by the requester and is received by one other than the Inspector General, the Office of Inspector General or Department official who receives the request will forward it promptly to the Inspector General and will advise the requester about the delayed time of receipt.

(e) The decision after review will be in writing, will constitute final agency action on the request, and, if the denial of the request for records is in full or in part upheld, the Inspector General will notify the person making the request of his or her right to seek judicial review under 5 U.S.C. 552(a)(4).

[49 FR 11165, Mar. 26, 1984. Redesignated and amended at 53 FR 37550, 37552, Sept. 27, 1988]

PART 2003—IMPLEMENTATION OF THE PRIVACY ACT OF 1974

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AUTHORITY: 5 U.S.C. 552a; 5 U.S.C. App. (Inspector General Act of 1978); 42 U.S.C. 3535(d).

SOURCE: 57 FR 62142, Dec. 29, 1992, unless otherwise noted.

§ 2003.1 Scope of the part and applicability of other HUD regulations.

(a) *General.* This part contains the regulations of the Office of Inspector General (“OIG”) implementing the Privacy Act of 1974 (5 U.S.C. 552a). The regulations inform the public that the